IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3966 OF 2007
IN
SUMMARY SUIT NO.1148 OF 1989

Hindustan Transmission Products Ltd. ..Plaintiffs.
Vs.
Surya Electronics. ..Defendant.

Mr.A.M.Mody for the Plaintiffs.

Ms. Sayed T. i/by R.M.Tiwari for the Defendant.

CORAM : A.M.KHANWILKAR, J.
DATE : 25th October, 2007.

P.C.

1. Although there is noting made in the Notice of Motion that the Notice of Motion is made returnable on 23.11.2007 however, it is has been placed on board today as the main suit itself was made returnable today, in view of the order dated 8.10.2007. In the circumstances, by consent, Notice of Motion is proceeded for final hearing today.

. Indeed, there is inordinate delay in taking out the present motion for condonation of delay in filing the written statement. However, going through the material on record, it is obvious that the delay is caused due to mistake of the Advocate. The written statement was affirmed on 13.3.1990 but the same remained to be filed. It is well established position that the litigant should

not suffer for the mistake of the Advocate. In the interest of justice, therefore, this Notice of Motion is made absolute in terms of prayer clause (a) on condition that the Advocate on record for the defendant shall pay costs quantified at Rs.3000/-, to be paid to the High Court Legal Service Authority within one week from today.The amount towards the costs shall be paid by the Advocate on record personally and not to be recovered from the defendant or any representative of the defendant. Payment of costs is condition precedent. If costs is paid in time, suit be listed on 27.11.2007 under caption "Issues" also as "Undefended Suit".

(A.M. KHANWILKAR, J.)